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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/694,653	10/23/2000	John Overman	5384/55100	3830
7590 11/03/2005 KEITH E GEORGE, ESQ. MCDERMOTT, WILL & EMERY 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096			EXAMINER FOX, CHARLES A	
			ART UNIT 3652	PAPER NUMBER

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/694,653

Applicant(s)

OVERMAN ET AL.

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9,19-44 and 47-55 is/are pending in the application.
- 4a) Of the above claim(s) 8,9,19-44 and 47-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7 and 51-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

Applicant's election with traverse of I(a) in the reply filed on July 25, 2005 is acknowledged. The traversal is on the ground(s) that invention I and II are not related as combination and subcombination. This is not found persuasive because the combination does not require the particulars of the subcombination, for example the output tray station. Secondly invention II has separate utility as agreed to be the applicant as a sorting device for the small stacks of mail which Invention I is not capable of performing as claimed. Regarding the restriction between the apparatus and the process of using the apparatus the overall steps defined in the method claims can be practiced by hand, and by another apparatus such as the one disclosed by Belgian patent number 628233.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because figures 5-15 are photocopies of photographs and are not legible. New line drawings showing the subject matter of figures 5-15 are required. Figures 1-4 are not acceptable. The descriptive words in the figures should be deleted and only reference numerals used in their place.

Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

## **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

### **Annotated Drawing Sheets**

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4,5,51 and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Lazzarotti. Regarding claim 1 Lazzarotti US 5,803,704 discloses a flats mail autotraying device comprising:

a stack accumulator (10) having a means for combining multiple small stacks of mail into a single larger stack while maintaining a sequence order of the mail pieces;

said stack accumulator also having means (14) for transferring said stack to a mail tray.

Regarding claim 2 Lazzarotti also discloses means for releasably engaging the tray.

Regarding claim 4 Lazzarotti further discloses the means for combining further incorporated a fork lift assembly (58).

In regards to claim 5 Lazzarotti also discloses that the forklift assembly is selectively raised and lowered and is selectively in contact with said large stack during a forklift cycle.

Regarding claim 51 Lazzarotti also discloses the stack accumulator as further comprising a side guide assembly (30).

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Regarding claim 53 Lazzarotti discloses using a sensor (54) for initiating the forklift cycle.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lazzarotti as applied to claims 1 and 53 above, and further in view of Jenkins et al. Lazzarotti teaches the limitations of claims 1 and 53 as above, he does not teach the transfer means as being a roller conveyor or that the forklift cycle stacks the mail pieces from the bottom. Jenkins et al. US 6,422,806 teaches a stack accumulator comprising:

a fork lift assembly wherein the forks (146) extend under a first article, lifts said article such that a second article may be placed below the first article in said stack;

wherein said forks cycle to stack more items on the lower portion of the stack until a predetermined number of items are in the stack;

after the stack is complete powered roller conveyor (16) moves said stack from said accumulator. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Lazzarotti with a roller conveyor as taught by Jenkins et al. in order to move the completed stack away from the accumulator while at the same time bringing in the first new item of a new large stack, thereby increasing the throughput of the device.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazzarotti and Jenkins as applied to claim 6 above, and further in view of Isaacs et al. Lazzarotti and Jenkins teach the limitations of claim 6 as above, they do not teach pushing the stack out of the accumulator. Isaacs et al. US 6,026,967 teaches a mail pieces accumulator where accumulated bundles of mail are pushed by a pusher mechanism (335) such that they are moved in a horizontal direction. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Lazzarotti and Jenkins with a pusher as taught by Isaacs et al. in order to move the stack while supporting the entire stack from a side thereby stabilizing the stack during movement thereof.

Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazzarotti as applied to claim 2 above, and further in view of Hendrickson et al. Lazzarotti teaches the limitation of claim 2 as above, he does not teach a means for holding the mail tray. Hendrickson US 6,241,099 teaches a device for loading mail trays comprising:

- a platform for supporting a mail tray;

- a latching gear for holding said tray on said platform. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Lazzarotti with a latching mechanism as taught by Hendrickson et al. in order to hold the tray securely while it is being loaded.

Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazzarotti and Jenkins as applied to claim 6 above, and further in view of Mandel et al.

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Lazzarotti and Jenkins teach the limitations of claim 6 as above, they do not teach a pivot arm sensor for determining the stack height. Mandel et al. US 5,609,333 teaches a sheet stack accumulator with a pivot arm (58) attached to a sensor (66) for determining the height of a stack of accumulated paper. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Lazzarotti and Jenkins with a stack height sensor as taught by Mandel et al. in order to further automate the device such that it does not accumulate more items than the device can place in a container.

The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Hessling et al. 1985, Rosati 1987 and Duecker 1999.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*CMC/af 10-31-05*  
Charles A. Fox  
Examiner  
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